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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by Caritas Internationalis (International Confederation of Catholic Charities), New Humanity, non-governmental organizations in general consultative status, Associazione Comunita Papa Giovanni XXIII, Association Points-Coeur, Company of the Daughters of Charity of St. Vincent de Paul, International Volunteerism Organization for Women, Education and Development - VIDES, Istituto Internazionale Maria Ausiliatrice delle Salesiane di Don Bosco, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The relevance of a declaration on the right to International Solidarity in a changing world*

The Associazione Comunità Papa Giovanni XXIII and the co-signing NGOs welcome the report of Ms Virginia Dandan, the Independent Expert on Human Rights and International Solidarity, submitted at the 26th regular session of the Human Rights Council that contains the first draft declaration on the Right of Individuals and Peoples to International Solidarity.

In resolution 2005/55, the Commission on Human Rights, inter alia, reaffirmed that the widening gap between the economically developed and developing countries is unsustainable and that it impedes the full realization of human rights in the international community. Therefore, it is imperative for every nation, in accord with its capacities, to make the maximum possible effort to close this gap. The Resolution further recognized that the "attention paid to the importance of international solidarity as a vital component of the efforts of developing countries towards the realization of the right to development of their peoples and the promotion of the full enjoyment of economic, social and cultural rights by everyone has been insufficient"[1]. Taking into account the urgent need to further develop guidelines, standards, norms and principles with a view to promoting and protecting rights closely interrelated to the fundamental value of solidarity, the Commission therefore decided to appoint an Independent Expert on Human Rights and International Solidarity for a period of three years. The Independent Expert was requested to: 1. study the issue and prepare a draft declaration on the right of peoples to international solidarity; 2. take into account the outcomes of all major United Nations and other global summits and ministerial meetings in the economic and social fields and to seek views and contributions from Governments, United Nations agencies, other relevant international organizations and non-governmental organizations in the discharge of her/his mandate; 3. report annually to the Commission on the progress made in the fulfilment of his/her mandate.

By presenting the draft declaration to this 26th session of the Human Rights Council, Ms Dandan marks a significant achievement, in her mandate, and we are thankful for her outstanding work.

From many years, APG23 and the co-signing NGOs actively have supported the mandate of the Independent Expert on Human Rights and International Solidarity since we are convinced that the recognition of international solidarity as a human right not only is an ideal goal to be achieved for ethical reasons that are rooted in the notion of being a human family, but because such a recognition is an essential necessity for the survival of the world today.

In fact, recognition of the right of individuals and peoples to International Solidarity will change the rules from the zero-sum game-"In order to win, someone else must lose"-to the new perspective "No one wins unless everyone wins."[2].

Furthermore, we believe that the right of individuals and peoples to international solidarity has its legal basis, inter alia, in the preamble and articles 1.3, 55, 56 of the United Nations Charter and in the preamble as well as articles 1, 28 and 29 of the Universal Declaration of Human Rights.

We greatly appreciate the efforts made by Ms Dandan to consult as many stakeholders as possible before and during the process of drafting the declaration. Our coalition made a joint contribution to the draft declaration and we are pleased to note that some suggestions have been reflected in the text.

Regrettably, up to the present time, the debate on International Solidarity at the Human Rights Council has been of a controversial nature with resolutions approved by voting and, unfortunately, with little participation of States and/or

[1] Resolution 2005/55, preamble

[2] Solidarity in the Practice and Discourse of Public International Law, R. St. J. MacDonald, 1996

civil society during the clustered interactive dialogues with the Independent Expert. We hope that the draft declaration will constitute a step ahead to reach a consensus on this important matter.

Today's world has indeed become a global village due to the phenomenon of globalisation that is characterised by increased interconnectivity and interdependency of nations with each other. For the first time in history, the market economy and the capitalistic system of division of labour have acquired global dimension: big factories have transferred productivity and labour beyond their national borders where it is more convenient, a global market has been established based on free trade; transnational organisations, both financial and political, have increasingly acquired more power at the expenses of the Sovereignty of States; through the modern technology, internet and the social networks, communication happens in real time all over the world.

Moreover, there is an increased awareness of the artificiality of the North-South division, a growing concern with the state of the natural environment (and its limited resources), the fact that States no longer are the primary or only actors at the international scene etc.

In this new scenario, it is time to recognize that human rights are a shared responsibility and a common basis of interaction between all members of the international community, States and non-states actors and to create an enabling environment where all human rights, including right to development, can be progressively realized for all[3].

The so called "third generation" of human rights founded on solidarity and fraternity shows that, in a interdependent world, human rights can be realized only with the contribution of all the actors of the international society.

We welcome the fact that the Independent Expert introduces in the draft declaration some paradigm shifts on the basic principles that underlie international human right law such as:

1. A shift away from international assistance and cooperation (cf. penultimate preambular paragraph) applied with conditionalities, and from the North-South /charity approach, towards "solidarity" as a broader concept and an underlying basic principle of international law and relations and solidarity cooperation;
2. A shift away from the notion of development focused only on economic growth to the vision of the Right to Development, taking the social and environmental dimension sufficiently into account;
3. A shift away from a state-centred focus, towards including a broad range of actors (non-state actors, groups, individuals etc.).

Since law should develop as reality develops, these new perspectives included in the draft declaration may lead to a conceptual framework that is more tailored to the world we are living in. They are in line with current concerns within the human rights community, on how to 're-design' the duty-bearer side of human rights law, and how to incorporate newer human rights issues.

Bearing in mind criticisms on the vagueness of the juridical contents of a right to international solidarity, a flaw that according to this criticisms, makes the process of the recognition of this right a rhetoric move, we are particularly pleased for the fact that the Independent Expert clarifies in the text the normative content of the right to international solidarity and explains who are its right holders and duty bearers. (Article 5 to 8 of the draft declaration).

As Ms Dandan said in her address to the Third Committee of the 68th General Assembly on 29 October 2013 in New York, "the preliminary text makes the point that the right of peoples and individuals to international solidarity draws on human rights norms and principles that are already codified in international legal documents and that therefore this right encompasses existing entitlements along with the obligations of States that are well-established in international human rights treaties. Further, it articulates what rights peoples and individuals have, individually and in association with

[3] A/HCR/26/34/Add.1 : Article 4 of the draft declaration on the right of peoples and individuals to international solidarity

others, within their territories and extraterritorially beyond national boundaries, and as provided for in human rights and other applicable international instruments".

Another important aspect reflected in the draft declaration is the intra-generational and intergenerational dimension of Solidarity. We truly believe that the recognition of the right of individuals and peoples to international solidarity will give legal status to the commitments to the well-being of future generations made in numerous international treaties, declarations, and policies.

Moreover, we welcome also the concept of "Preventive Solidarity" being reflected in the draft declaration. The Human Rights Council in Resolution A/HRC/15/13 (OP7) has adopted this concept put forward by Mr Ritzki, the previous Independent Expert, and echoed on several occasions by Ms Dandan.

Preventive solidarity means that interventions are not limited to and implemented when calamities, crises, natural disasters occur, but rather steps are taken by Member States, at national and international level, to address and remove the structural obstacles to the enjoyment of human rights and a fair distribution of benefits in our globalised world. Preventive solidarity aims to remove the root causes of asymmetries and imbalances within and between countries. It is a very important notion that needs, perhaps, to be better articulated in the draft declaration.

Finally, the co-signing NGOs urge that the draft declaration of the Right of Individuals and Peoples to International Solidarity progress speedily towards the final text and renew their active support to the work of the Independent Expert on International Solidarity and Human Rights.

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* International-Lawyers.Org (DPI Associated) NGO(s) without consultative status, also share the views expressed in this statement.